

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General
LESLIE E. BRAST
Deputy Attorney General
State Bar No. 203296
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5548
Facsimile: (415) 703-5480
Attorneys for Complainant

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. VN-2008-2789

MARIA TERESA CAIN
1560 Davis Court
Fairfield, CA 94533

A C C U S A T I O N

Vocational Nurse License No. VN 230315

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant), brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs.

2. On or about October 19, 2007, the Board issued Vocational Nurse License Number VN 230315 to Maria Teresa Cain (Respondent). The license was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2011, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

1 4. Code section 2875 provides, in pertinent part, that the Board may discipline the
2 holder of a vocational nurse license for any reason provided in Article 3 (commencing with
3 section 2875) of the Vocational Nursing Practice Act.

4 5. Code section 118(b) provides, in pertinent part, that the expiration of a license shall
5 not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
6 within which the license may be renewed, restored, reissued or reinstated. Under Code section
7 2892.1, the Board may renew an expired license at any time within four years after the expiration.

8 STATUTORY / REGULATORY PROVISIONS

9 6. Code section 490 provides, in pertinent part, that the Board may suspend or revoke a
10 license when it finds that the licensee has been convicted of a crime substantially related to the
11 qualifications, functions or duties of a licensed vocational nurse.

12 7. Code section 2878 states, in pertinent part:

13 “The Board may suspend or revoke a license issued under this chapter [the Vocational
14 Nursing Practice Act (Bus. & Prof. Code, section 2840, et seq.)] for any of the following:

15 “(a) Unprofessional conduct . . .

16 “. . .

17 “(f) Conviction of a crime substantially related to the qualifications, functions, and duties
18 of a licensed vocational nurse, in which event the record of the conviction shall be conclusive
19 evidence of the conviction.”

20 8. Code section 2878.5 states, in pertinent part:

21 “In addition to other acts constituting unprofessional conduct within the meaning of this
22 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed
23 under this chapter to do any of the following:

24 “. . .

25 “(b) Use any controlled substance as defined in Division 10 of the Health and Safety Code,
26 or any dangerous drug as defined in Section 4022, or alcoholic beverages, to an extent or in a
27 manner dangerous or injurious to himself or herself, any other person, or the public, or to the
28 extent that the use impairs his or her ability to conduct with safety to the public the practice

1 authorized by his or her license.

2 “(c) Be convicted of a criminal offense involving possession of any narcotic or dangerous
3 drug, or the prescription, consumption, or self-administration of any of the substances described
4 in subdivisions (a) and (b) of this section, in which event the record of the conviction is
5 conclusive evidence thereof.”

6 9. Code section 2878.6 states:

7 “A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a
8 charge substantially related to the qualifications, functions and duties of a licensed vocational
9 nurse is deemed to be a conviction within the meaning of this article. The board may order the
10 license suspended or revoked, or may decline to issue a license, when the time for appeal has
11 elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting
12 probation is made suspending the imposition of sentence, irrespective of a subsequent order under
13 the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of
14 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
15 accusation, information or indictment.”

16 10. California Code of Regulations, title 16, section 2521, states in pertinent part:

17 “For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
18 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
19 considered to be substantially related to the qualifications, functions or duties of a licensed
20 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
21 vocational nurse to perform the functions authorized by his license in a manner consistent with
22 the public health, safety, or welfare.”

23 COST RECOVERY

24 11. Code section 125.3 provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Substantially Related Crime)

3 12. Respondent is subject to disciplinary action under Code sections 490 and 2878(f) in
4 that she was convicted of a crime or crimes substantially related to the qualifications, functions
5 and duties of a licensed vocational nurse. The circumstances are as follows:

- 6 a. On or about September 14, 2009, in Solano County Superior Court, Case No.
7 FCR266052, Respondent was convicted of having violated Vehicle Code (VC) section
8 23152(b) (driving with a blood alcohol level of .08 percent or more), with an
9 enhancement for having a blood alcohol level of .15 percent or more, and two prior
10 convictions: 1) violation of VC section 23152(b) on or around October 2, 2000, in
11 Solano County Superior Court, Case No. 185918; and 2) violation of VC section
12 23152(b) on or around May 8, 2001, in Solano County Superior Court, Case No.
13 188873.
- 14 b. Imposition of sentence was suspended and Respondent was granted three years formal
15 probation and ordered to complete an 18-month Multiple Offender Drinking Driver
16 Program.
- 17 c. Respondent's conviction resulted from her arrest on or about April 22, 2009, after the
18 vehicle she was driving collided with a parked car on Grande Circle in Fairfield,
19 California. The force of the collision pushed the parked car into the car parked in
20 front of it, damaging all three vehicles. Respondent admitted to police that she had
21 been driving while under the influence of alcohol.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct: Alcohol Related Conviction)

24 13. Respondent is subject to disciplinary action for unprofessional conduct under Code
25 sections 2878(a) and 2878.5(c) in that she was convicted of a crime or crimes involving the
26 consumption of alcohol, as set forth in paragraph 12, above.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Dangerous/Injurious Use of Alcohol)

3 14. Respondent is subject to disciplinary action for unprofessional conduct under Code
4 sections 2878(a) and 2878.5(b) in that she used alcohol to an extent or in a manner dangerous or
5 injurious to herself, or any other person, or to the extent that she used impaired her ability to
6 safely practice vocational nursing, as set forth in paragraph 12, above.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
10 issue a decision:

11 1. Revoking or suspending Vocational Nurse License Number VN 230315, issued to
12 Maria Teresa Cain;

13 2. Ordering Maria Teresa Cain to pay the Board of Vocational Nursing and Psychiatric
14 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
15 Business and Professions Code section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: February 22, 2011



19 TERESA BELLO-JONES, J.D., M.S.N., R.N.
20 Executive Officer
21 Board of Vocational Nursing and Psychiatric Technicians
22 Department of Consumer Affairs
23 State of California
24 Complainant

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